

IN THE UNITED STATES DISTRICT COURT
For the District of Delaware

Ricardo A. Castillo,

Plaintiff,

v.

Frank Costan and Vida Dawkins,

Defendants.

Civ. No.: 04-210-GMS

DEFENDANTS' MOTION TO EXTEND THE DISCOVERY DEADLINE

NOW COMES Defendants, Frank Costan and Vida Dawkins ("Defendants"), by and through their undersigned counsel, and hereby move this Honorable Court for an Order extending the discovery deadline. In support thereof, Defendants proffer the following reasons:

1. This case arises from a complaint filed by Plaintiff, Ricardo A. Castillo ("Plaintiff"), on April 6, 2004.
2. On August 9, 2006, the Court dismissed the matter based on Plaintiff's failure to comply with an earlier Order relating to the submission of form USM-285.
3. On September 12, 2006, the Court received the appropriate forms from Plaintiff. Thereafter, on February 6, 2007, the Court granted Plaintiff's request to re-open the case.
4. The complaint was served on Defendants on May 16, 2007.
5. On July 16, 2007, Defendants filed their initial Motion to Dismiss, which the Court later denied on February 11, 2008.
6. On February 21, 2008, Defendants filed their Answer with Affirmative Defenses.
7. On February 26, 2008, this Honorable Court issued a scheduling Order

requiring, *inter alia*, completion of discovery on or before August 28, 2008. (See Court's Order of August 28, 2008 attached hereto).

8. On or about April 23, 2008, Defendants sent to Plaintiff Defendants' First Set of Interrogatories addressed to Plaintiff, a First Request for Production of Documents and Requests for Admission. In accordance with the Federal Rules of Civil Procedure, these responses were due on May 26, 2008.

9. On May 29, 2008, having received no response, Defendants sent to Plaintiff a letter by both certified and regular mail requesting responses to the discovery requests within ten (10) days.

10. Again, Plaintiff failed to respond and another letter was sent to his attention on June 6, 2008.

11. Due to Plaintiff's ongoing failure to respond to Defendants' discovery requests, his failure to prosecute the case in any fashion, and apparent lack of interaction with the Court since September 12, 2006, Defendants filed a Motion to Dismiss for a Failure to Prosecute pursuant to F.R.C.P. Rule 41(b) on June 25, 2008.

12. Based on Plaintiff's failure to respond to any discovery requests, Defendants have been unable to complete any discovery within the Court's required time frame.

WHEREFORE, Defendants respectfully requests this Honorable Court extend the deadline for discovery, or in the alternative, grant the outstanding Motion to Dismiss for a Failure to Prosecute.

Respectfully Submitted,

REGER, RIZZO & DARNALL, LLP

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Dated: August 22, 2008

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ORDER

AND NOW, this day of , 2008, upon consideration of the Motion for an extension of the discovery deadline, it is hereby ORDERED that the Motion to Extend the Discovery Deadline is GRANTED. A new discovery deadline shall issue shortly.

BY THE COURT:

Sleet, C.J.

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CERTIFICATE OF SERVICE

I, Michael L. Ripple, Esquire, hereby certify that a true and correct copy of Defendants' Motion to Dismiss was served this date, via U.S. First Class mail, to Plaintiff, Ricardo Castillo, *pro se*, addressed to his last known address as follows:

Mr. Ricardo Castillo
30 Winterhaven Drive
Apartment 7
Newark, DE 19702

REGER, RIZZO & DARNALL, LLP

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Dated: August 22, 2008